

MDR Tracking Number: M5-05-0811-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-08-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The physical performance testing on 1-16-04 was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for date of service 1-16-04 in this dispute.

This Order is hereby issued this 8th day of February 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date: 2/4/05
Injured Employee:
MDR : M5-05-0811-01
TWCC #:
MCMC Certification #: 5294

DETERMINATION: Approve

Requested Services:

Please review the item in dispute regarding CPT code 97750, physical performance testing that was denied by carrier for medical necessity with PEC "V".

Date of service in dispute: 01/16/2004

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on 12/9/2004, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity is established for a physical performance test dated 01/16/2004.

This decision is based on:

- *TWCC Notification of IRO Assignment dated 12/9/2004
- *TWCC MR 117 dated 12/10/2004
- *TWCC-60 stamped received 11/08/2004, 11/15/2004, 11/18/2004 3pgs
- *Concentra Explanation of Review for DOS 01/16/2004
- *Southeast Health Services letter dated 12/30/2004 with a copy of TWCC Rules, Chapter 134
- *FCE, Liberty Healthcare dated 1/16/2004 16 pgs.

Records indicate that the above captioned individual was injured during the course of her normal employment. The history reveals that she related that a work related injury, which occurred on or before _____. The mechanism of injury was a fall onto both knees with the left more than the right. She presented for treatment with bilateral knee pain and low back pain. The injured individual has apparently undergone an exhaustive course of physical medicine. Also, the documentation suggests that the injured individual underwent bilateral knee replacement surgeries. An FCE dated 01/16/2004 revealed that the injured individual was demonstrating abilities consistent with a return to pre-injury employment status. The same FCE however, revealed significant disability as per an outcome assessment form.

This injured individual attended a course of physical medicine and/or chiropractic intervention for injuries arising out of an occupational incident. Based upon a review of the documentation, the injuries appear profound eventually requiring bilateral knee replacements. It would be proper and appropriate to administer a functional assessment prior to returning to pre-injury employment. It is the responsibility of the practitioner to firmly establish that an she is physically able to return to pre-injury employment status especially when a significant time of disability has been documented, such as this particular case. The documentation suggests that this FCE was, in fact, a post work hardening, pre-return to employment examination to determine if the injured individual was able to return to her occupation as a housekeeper with minimal risk of re-injury.

REFERENCES:

References utilized in this review include but are not limited to:

1. The ACEOM Guidelines
2. Health Care Guidelines by Milliman and Robertson Volume 7
3. North American Spine Society Guidelines
4. Guidelines for Chiropractic Quality Assurance and Practice Parameters: Practice Parameters from the proceedings of the Mercy Center Consensus Conference, Agency for Health Care Policy and Research (AHCPR)
5. Procedural Utilization Guidelines.

The reviewing provider is a **Licensed Chiropractor** and certifies that no known conflict of interest exists between the reviewing **Chiropractor** and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5).

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this

4th day of February 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____